

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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INTERNATIONAL MARKETS LIVE, INC.,
Plaintiff,
v.
ROBERT HALTERMAN, et al.,
Defendants.

Case No. 2:18-cv-00187-JAD-GWF

ORDER

This matter is before the Court on Defendant Scott Carney's Motion to Stay Discovery (ECF No. 24), filed on June 12, 2018. To date, no party has filed an opposition to this motion and the time for response has now expired.

BACKGROUND

This matter arises from allegations of defamation per se, trade libel, tortious interference with contractual relations, tortious interference with prospective economic advantage, and civil conspiracy. *See Complaint* (ECF No. 2). Defendant Carney's motion to dismiss seeks dismissal of Plaintiff's amended complaint for lack of personal jurisdiction, improper venue, and for failure to state a claim. *See* ECF No. 23. Defendant requests that the Court stay discovery pending a ruling on his motion to dismiss or, in the alternative, to transfer this action to the Southern District of Florida.

DISCUSSION

The Federal Rules of Civil Procedure do not provide for automatic or blanket stays of discovery when a potentially dispositive motion is pending. *See Skellerup Indus. Ltd. V. City of L.A.*, 163 F.R.D. 598, 600-1 (C.D. Cal. 1995). Ordinarily, a dispositive motion does not warrant a stay of discovery. *See Twin City Fire Insurance v. Employers of Wausau*, 124 F.R.D. 652, 653 (D. Nev. 1989). *See also Turner Broadcasting System, Inc. v. Tracinda Corp.*, 175 F.R.D. 554,

1 556 (D. Nev. 1997). The moving party carries the heavy burden of making a strong showing of
2 why discovery should be denied. *Kor Media Group, LLC v. Green*, 294 F.R.D. 579, 581 (D. Nev.
3 2013).

4 Courts have broad discretionary power to control discovery. See *Little v. City of Seattle*,
5 863 F.2d 681, 685 (9th Cir.1988). When deciding whether to grant a stay of discovery, the Court
6 is guided by the objectives of Fed. R. Civ. Pro. 1 that ensures a “just, speedy, and inexpensive
7 determination of every action.” *Kor Media Group*, 294 F.R.D. at 581. The Court may grant a
8 motion to stay discovery when “(1) the pending motion is potentially dispositive; (2) the
9 potentially dispositive motion can be decided without additional discovery; and (3) the Court has
10 taken a “preliminary peek” at the merits of the potentially dispositive motion and is convinced
11 that the plaintiff will be unable to state a claim for relief.” *Id.*

12 Common examples of when a stay is warranted are cases involving jurisdiction, venue, or
13 immunity as preliminary issues. *Twin City Fire Ins. Co.*, 124 F.R.D. at 653. “[A] pending motion
14 challenging jurisdiction strongly favors a stay, or at minimum, limitations on discovery until the
15 question of jurisdiction is resolved.” *AMC Fabrication, Inc. v. KRD Trucking W., Inc.*, 2012 WL
16 4846152, at *2 (D. Nev. Oct. 10, 2012). A motion challenging personal jurisdiction, however,
17 does not mandate a stay of discovery. *Id.* The Court’s view of jurisdiction in this matter may
18 differ from the assigned district judge and it is the assigned district judge who will make the
19 ultimate determination on whether there is personal jurisdiction. *Id.* at *4.

20 After conducting its “preliminary peek” of Defendant Carney’s motion to dismiss, the
21 Court finds that a stay of discovery is warranted. The standard to grant a stay of discovery pending
22 a motion to dismiss based on a lack of personal jurisdiction or improper venue is less rigorous than
23 the standard to stay discovery pending a motion to dismiss for failure to state a claim under Fed.
24 R. Civ. P. 12(b)(6). Defendant Carney’s motion to dismiss sets forth a lack of personal jurisdiction
25 and improper venue that is sufficient to grant a stay of discovery in this matter. In addition, Local
26 Rule 7-2(d) provides that “The failure of an opposing party to file points and authorities in response
27 to any motion shall constitute a consent to the granting of the motion.” Plaintiff did not file points
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1 and authorities in response to Defendant's instant motion to stay. Therefore, Plaintiff is considered
2 to have consented to the granting of Defendant's motion under LR 7-2(d). Accordingly,

3 **IT IS HEREBY ORDERED** that Defendant Scott Carney's Motion to Stay Discovery
4 (ECF No. 24) is **granted**.

5 Dated this 11th day of July, 2018.

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8 GEORGE FOLEY, JR.
9 UNITED STATES MAGISTRATE JUDGE
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